

REMARKS

Claims 1-20 are pending in this application. Claims 1-20 stand rejected.

Independent claim 1 and dependent claims 2 and 5 stand rejected under 35 U.S.C. §102(e) as being anticipated by Summerell et al. U.S. Patent No. 5,937,387 (hereinafter “Summerell”). Applicants respectfully traverse the foregoing claim rejections.

As set forth in detail in the present application, Applicants’ invention is directed to embodiments of a system and method for determining the importance of variables that contribute to the overall score of a model for predicting the profitability of an insurance policy. The system and method of the present claimed invention evaluate a scoring model to determine the contribution of each of individual predictable variables to the overall score generated by the scoring model. The system and method of the present claimed invention also quantify the contribution of each predictive variable to the score generated by the model by populating a database associated with the system with a mean value and standard deviation value for each of the plurality of variables, calculating a slope value for each of the plurality of variables, calculating a deviance based on the slope and standard deviation for each of the plurality of variables and multiplying the deviance value and slope value for each of the plurality of variables to quantify the contribution of each of the plurality of variables to the score. The quantified contribution may then be used to rank the variables by importance to the overall score.

Summerell describes embodiments of a system and method for developing a customized wellness plan for measuring a user’s wellness by determining a user’s physiological age. The interactive wellness system and method of Summerell collects information relating to the user’s voluntary choices, habits, environments, disease transitions and genetic dispositions (wellness factors) and measures the user’s wellness by determining his or her physiological age.

In addition, the system and method of Summerell is capable of presenting the user with expert knowledge, know-how and resources to improve wellness, allowing the user to determine the effects varying combinations of wellness options could have on physiological age, allowing the user to choose the combination of wellness options that he or she wishes to follow, monitoring the user's progress toward improving wellness by measuring physiological age and incorporating new medical data and new user data into the system.

Summerell, which Applicants respectfully submit is non-analogous art, does not disclose, suggest or yield the present invention as claimed in independent claim 1 -- significant differences exist between the system and method of the present claimed invention for calculating the contribution of each of a plurality of variables in a statistical model including a scoring formula for generating a score and Summerell's system and method for determining a user's physiological age to create a customized wellness plan that warrant the immediate withdrawal of the rejection of independent claim 1 on anticipation grounds. Summerell does not disclose each element of the rejected claim, and accordingly, the Examiner has not made out a *prima facie* case of anticipation.

Summerell nowhere teaches or suggests means for calculating the contribution of any of the plurality of variables based on the calculated slope and deviance values according to the present invention as affirmatively recited in independent claim 1 of the present application. Cf. Specification at [0026]-[0038] (Importance = Slope * Deviance). It is respectfully submitted that the Examiner appears to misinterpret Summerell as disclosing means for calculating the contribution of any of the plurality of variables based on the calculated slope and deviance values according to the present invention. Summerell is concerned with calculating physiological age for a user based on a user survival curve in order to create a customized

wellness plan. *See* Summerell at 15:6-16:35. Predetermined relative risk factors are used to modify the survival rate and mortality rate of the standard population in order to assess the physiological age of a user. The contribution of these relative risk factors is not calculated as part of the assessment of the physiological age. As a result, Summerell is not concerned with the importance of each contributing variable but is instead focused on the final end result of a calculated physiological age.

The difference between Summerell and the present claimed invention is clearly illustrated by comparing Table Two of Summerell (which the Examiner heavily relies upon to support the arguments presented in the Office Action) with Fig. 5 of the present application specification. The relative risk, first relative risk adjustment and second relative risk assessment (columns 2, 4 and 6, respectively) in Table Two are not even remotely comparable to the Importance (column 5) and Rank (column 6) of Fig. 5. As such, Summerell does not teach or suggest means for calculating the contribution of any of the plurality of variables based on the calculated slope and deviance values according to the present invention. Accordingly, claim 1 of the present application recites features nowhere found in the Summerell reference, and, thus, Summerell cannot anticipate claim 1.

The Federal Circuit has instructed that anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *See W.L. Gore & Assocs. v. Garlock, Inc.*, 220 U.S.P.Q. 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 841 (1984); *see also Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984) (requiring that the prior art reference disclose each element of the claimed invention arranged as in the claim). Considering that the system and method of the present invention as claimed in independent claim 1 differs from the system and method

disclosed in Summerell, as provided above, it is respectfully submitted that the Examiner has not made a *prima facie* case of anticipation, and that claim 1 is thus patentable over Summerell.

Notice to this effect is earnestly requested.

It is further submitted that dependent claims 2 and 5 are also allowable by reason of their various dependencies from independent claim 1, as well as for the additional features and structure recited therein. Notice to this effect is also earnestly requested.

Independent claims 8, 13 and 17 and dependent claims 6-7, 9-12, 14 and 18-20 stand rejected under 35 U.S.C. §103(a) as being obvious over Summerell. Applicants respectfully traverse the foregoing claim rejections.

As discussed above, Summerell describes embodiments of a system and method for developing a customized wellness plan for measuring a user's wellness by determining a user's physiological age. However, Summerell nowhere teaches or suggests multiplying the deviance value and slope value for each of the plurality of predictive variables to determine the contribution of each of the plurality of predictive variables to the score according to the present invention. Summerell is concerned with calculating physiological age for a user based on a user survival curve in order to create a customized wellness plan. Relative risk factors are used to assess the physiological age of a user. The contribution of these relative risk factors is not calculated as part of the assessment of the physiological age. *See* Summerell at 15:6-16:35. *Cf.* Specification at [0026]-[0038] ($\text{Importance} = \text{Slope} * \text{Deviance}$). In fact, the Examiner acknowledges that Summerell does not disclose the same method of calculating the deviance value as the present invention. *See* pages 5-6 of the Office Action. If Summerell does not disclose the same method for calculating the deviance value as the present invention, it logically

follows that Summerell could not then multiply the deviance value with the slope value of each of the plurality of predictive variables to determine the contribution of each to a score.

In addition, it is respectfully submitted that the Examiner's statement that Summerell would be "functionally analogous" to the present claimed invention for multiplying the deviance value and slope value for each of the plurality of predictive variables to determine the contribution of each to a score is inaccurate. Summerell utilizes slope and deviance with respect to wellness factors to modify the survival rate and mortality rate of the standard population in order to determine the physiological age of a user. The importance of the wellness factors to the resulting physiological age is never determined. In other words, Summerell merely uses deviance and scope to combine the individual contribution and effect of each wellness factor in order to derive the total impact on the survival rate of a user but never weights the contribution of the wellness factors. In contrast, the present claimed invention calculates the importance each of the variables that contributes to a final score in order to communicate the resulting importance of each of the variables to interested parties. Because, in addition to being non-analogous art, Summerell fails to teach or suggest multiplying the deviance value and slope value for each of the plurality of predictive variables to determine the contribution of each to a score as claimed in the independent claims 8, 13 and 17, it is submitted that one of ordinary skill in the art at the time of the invention who reads and understands Summerell would not be motivated, let alone equipped, to arrive at the present claimed invention.

It is further submitted that dependent claims 6-7, 9-12, 14 and 18-20 are also allowable by reason of their various dependencies from independent claims 1, 8, 13 and 17, as well as for the additional features and structure recited therein. Notice to this effect is also earnestly requested.

Dependent claims 3-4 and 15-16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Summerell in view of Hele et al. U.S. Patent Application Publication 2002/0116231 (hereinafter “Hele”). As an initial matter, Applicants respectfully reserve the right to file a declaration under 37 C.F.R. 1.131 to remove Hele as a prior art reference against the present application. Notwithstanding this reservation, Applicants respectfully traverse the foregoing claim rejections as set forth below.

It is submitted that dependent claims 3-4 and 15-16 are also allowable by reason of their various dependencies from independent claims 1 and 13, as well as for the additional features and structure recited therein. Notice to this effect is earnestly requested.

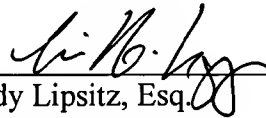
Hele describes embodiments of a system and method for selling insurance coverage to a user over the Internet. Hele discloses the steps of providing to the user a recommendation of insurance coverage from at least one insurance carrier by comparing profile information of the user with the underwriting rules of a plurality of insurance carriers; receiving a selection of a risk carrier and a payment from the user; producing a policy contract and notifying the selected risk carrier to the policy contract. Hele, however, does not cure the severe deficiencies of Summerell. Hele nowhere teaches or suggests calculating the contribution of any of the plurality of variables based on the calculated slope and deviance values or multiplying the deviance value and slope value for each of the plurality of predictive variables to determine the contribution of each of the plurality of predictive variables to the score. Accordingly, Summerell and Hele, either alone or in combination, do not anticipate or render obvious the present claimed invention.

On the basis of the foregoing remarks, Applicants respectfully submit that this application is in condition for immediate allowance, and notice to this effect is earnestly

requested. The Examiner is invited to contact Applicants' undersigned attorneys at the telephone number set forth below if it will advance the prosecution of this case.

A check in the amount of \$1,020 covering the fee for the Petition for a Three-Month Extension of Time submitted herewith is enclosed. Please charge any fee deficiency to Deposit Account No. 50-0540.

Respectfully submitted,



Randy Lipsitz, Esq.

Reg. No. 29,189

Richard L. Moss, Esq.

Reg. No. 39,782

Leslie K. Nguyen, Esq.

Reg. No. 49,081

Attorneys for Applicants

KRAMER LEVIN NAFTALIS & FRANKEL LLP

1177 Avenue of the Americas

New York, New York 10036

(212) 715-9100